

MONTANA BOARD OF HORSE RACING MEETING  
AUGUST 24, 2007 – 10:00 A.M.  
METRAPARK ARENA CONFERENCE ROOM  
BILLINGS, MT

Unapproved Minutes

**ATTENDANCE:**

Bob Brastrup	Chairman	Sue Austin	Board Member
Al Carruthers	Board Member	Mike Tatsey	Board Member
John Tooke	Board Member	John Ostlund	Board Member
Mary Ogdahl	Board Member	Sam Murfitt	Executive Secretary
Carol Grell Morris	Legal Counsel	Marlys Stark	Administrative Assistant

**PUBLIC IN ATTENDANCE:**

Gerald Kaul, Ron Reed, Christian Mackay, Janet Ibach, Francy Martin, Clarence Ibach, Maxine Carruthers, Randy Blasdel, Chester Monson, Bill Nooney, Gary Koeplin, Marvin Krone, Amelia Steffes, Ervin Carlson, Randy Laedeke, Bill Ogg, Lou Wojciechowski, Jody Lacey, Jackie Smith, Lyle Magnuson, Burton Farley, Ben Carlson, Amber Flom

**CALLED TO ORDER:**

Chairman Brastrup called the meeting to order at 10:06 a.m.

**MINUTES:**

**Upon motion regularly made and carried, the minutes of the previous meetings were approved with one correction and ordered filed with the permanent records of the Board.**

**GERALD KAUL HEARING:**

Contested case hearing was opened at 10:10 a.m. Owner Gerald Kaul appealed a disqualification ruling by the Board of Stewards at the 2006 Miles City Bucking Horse Sale Race Meet, during the 5th race on May 21, 2006. The Board of Stewards had disqualified the horse "Sweetsoutherncomfort" from fourth place to sixth place for interference. State Steward Ron Reed testified on behalf of the Board of Stewards. Both the official program page and the official videotape of the race were presented as evidence. The State Steward was subject to cross examination. Owner Gerald Kaul also testified and was subject to cross examination.

Testimony was closed at 10:35 a.m. Board members then deliberated on the testimony and evidence, and concluded Owner Kaul's horse did not commit interference, and should not have been disqualified.

**Motion by Member Tatsey to overturn the disqualification ruling of the stewards and revert back to the original order of finish. Seconded by Member Carruthers and motion carried.**

**ERVIN CARLSON HEARING:**

Contested case hearing was opened at 10:45 a.m. Owner Ervin Carlson appealed a disqualification ruling by the Board of Stewards at the Montana State Fair Race Meet, during the 8th race on July 28, 2007. The Board of Stewards had disqualified the horse "La Cresta" from first place to fourth place for interference. State Steward Gary Koeplin testified on behalf of the Board of Stewards. Both the official program page and the official videotape of the race were presented as evidence. The State Steward was subject to cross examination. Owner Ervin Carlson also testified and was subject to cross examination.

Testimony was closed at 11:11 a.m. Board members then deliberated on the testimony and evidence, and concluded Owner Carlson's horse did not commit interference, and should not have been disqualified.

**Motion by Member Tatsey to overturn the disqualification ruling of the stewards and revert back to the original order of finish. Seconded by Member Carruthers and motion carried.**

**Recess at 11:21 a.m. Reconvene at 11:31 a.m.**

#### **STATE FAIR RACE MEET RECAP:**

The track evaluation and the final stewards' report were both reviewed by the Board. State Steward Gary Koepplin explained the major issues and concerns of the reports to the Board. The first issue was the track surface needed a lot of work and caused a lot of horse breakdowns. Secondary issues with that were that there were a lot of machinery breakdowns. There were several issues with the starting gate, among them availability for schooling, having a crew early enough and control of the crew. Security was a big issue throughout the meet but especially bad the last weekend. There were some problems with entry rules not being understood by the race office. Several things were not ready and had not been tested prior to the first day of the meet, for example the tote and photo equipment. Programs were an issue, specifically the proofing.

Several things were mentioned that could be attributed to the late commitment to racing and not being prepared by the first day of racing. These included the lack of a gate crew and the equipment problems previously mentioned, the lack of jockeys, and many others.

The Executive Secretary noted a lot of the problems, including the surface, was the result of a type of snowball effect, where a little more was allowed or let go each year and finally built up to this point. He recommended a letter be sent to the Cascade County Commissioners as well as SMG and Montana State Fair Race Meet which explains the problems and the Board's desire for a plan of corrections. He recommended sending a copy of the stewards' and vet's reports along with the letter and requesting an action plan addressing the major issues to be submitted with or prior to the date application for 2008 dates.

Bill Ogg, Director of Racing for Montana State Fair stated although he is responsible for the race meet, he is more the messenger than the one responsible for responding or prior decisions. He felt the stewards' report ranged from very accurate to very inaccurate. Specifically, he thought there should have been no complaints about the starter; that security was an issue but no more than in other places because the horsemen don't care for the 'harassment' of the license checks; that a starting gate was available from the time the track opened for training; and that a lot of people have worked very hard to keep horseracing at Great Falls. He said the Cascade County Commissioners had delayed the decision to race until May which made it difficult to get some programs up and going and that they had cut his budget again so saving money on things like the programs was very important.

The Board asked if any members of the public present had any comments to make regarding these issues. The comments received all indicated agreement that the track surface was unacceptable. Other issues received a variety of comments from support of the reports to support of the track.

Member Tooke stated that rules are black and white, not gray, and that he felt if the Board and others continued to approach rules as a gray area, horse racing is history. He felt it is the duty of the Board and its staff to offer betters and spectators a fair and consistent product.

**Motion by Member Tooke to direct the Executive Secretary to write to the Cascade County Commissioners to tell them that remedial steps are necessary to fix the problems identified to the Board if they intend to request dates in the future. Motion was seconded by Member Ostlund.**

Member Tatsey did not support the Motion. He felt the track should have been given more than the steward's evaluation prior to the meeting. He stated a letter was not the way to go and that the Cascade County Commissioners should be invited to sit down with Mr. Ogg and the Board of Horse Racing to discuss these issues and work on a plan together.

The Executive Secretary explained that at this point, the Cascade Commissioners probably don't realize there are problems but since they have ultimate oversight over the meet, they need to be informed.

**After discussion, the Board voted on the previous motion by Member Tooke to have the Executive Secretary send a letter to Cascade County, SMG and Montana State Fair Race Meet. The motion passed as made.**

Mr. Ogg stated that while he would encourage the Board to communicate directly to the Commissioners, he felt that the tone needs to be encouraging rather than in the form of an ultimatum. Executive Secretary Murfitt recommended that the Board have the chairman draft the letter.

**Member Carruthers made a motion that the Chairman of the Board work with the Board attorney to draft the letter. Seconded by several members and the motion carried.**

**Recess at 1:12 p.m. Reconvene at 2:33 p.m.**

### **COMMITTEE REPORTS:**

#### 1. Advanced Deposit Wagering

Committee Chair John Ostlund informed the Board the committee had given its rules recommendations and would no longer be meeting. The Committee had rules from other states to work with so it went very smoothly and quickly. Ben Carlson of Yellowstone Downs said that he felt they reached a satisfactory conclusion and wondered how long implementation would take. Legal Counsel Grell Morris reminded the board that the next step in the process is formatting the rules and then proposing them to the public.

**A motion was made by Member Carruthers that the Board moves forward with writing the rules. The motion was seconded by Member Tooke and the motion carried.**

Mr. Carlson stressed that he felt it was important to move forward as quickly as possible.

#### 2. Fantasy Sports Wagering

Committee Chair John Tooke summarized the steps taken so far and the progress made. He stated that they are trying to anticipate and prevent possible road blocks in the future. It is a major process to flesh out the program and come up with the necessary definitions. They have spent a lot of time trying to define exactly what they will be doing but now that they have that done, progress should be faster. **The next committee meeting will be on October 3rd at 10:00 at Jorgenson's in Helena.** Mr. Tooke hopes to have the recommendations for the rules pretty much finalized by the end of that meeting.

### **YELLOWSTONE DOWNS OFFICIALS:**

Since Yellowstone Downs is currently running, the Board was given the list of the officials for the race meet and informed of one change. Starter Cloyd Hudson has agreed to take on the duties of clerk of scales also.

### **PUBLIC COMMENT:**

**In accordance with Mont. Code Ann. § 2-3-103, the meeting was opened for public comment at this time. Chairman Brastrup read the open forum statement and the public was informed that they could have a short time for comment but that no action could be taken on any issue at this time.**

Horseman Burton Farley from Hardin asked the Executive Secretary why promotion--which he remembers as being in the rule book a very long time ago--had been taken out? The response was that in the statutes the Board is responsible for regulating but that promotion is actually done on a small scale. Mr. Farley indicated that he felt that if the finances become available there should be more promotion done. Then he expressed to the Board his appreciation for what they have been doing.

Horseman Amelia Steffes from Great Falls wanted to know how any income from fantasy sports will be distributed if the Board strictly regulates? The Executive Secretary explained that most likely the Board would develop a formula for dividing and distributing the money. All these programs are in the statutes giving the Board authority to collect and distribute the money. She then asked if a committee would be formed in order to determine that formula and was told that would be decided down the road. Her final comment was that there seemed to be a hole between management itself and the support of racing. Member Carruthers pointed out that the 'hole' she perceived would only be able to be filled by money.

Horseman Randy Laedeke from Billings had several points. First he thought there was a problem with the availability of the rule book at the race offices, based on an incident in Billings the prior year. He also thought rule books should be handed out when a person purchased a license. It was noted the stewards all had current rule books as did the racing secretary and the director of racing. In addition all rules are online and there are rule books available for purchase in the state licensing office. His second point was that there needs to be better rules regarding the cameras and clear views because of some occurrences in Great Falls. The Board does have those rules in place and those matters are on the list of items needing to be corrected in Great Falls. Along with that, Mr. Laedeke suggested that there should be several cameras set up around the starting gate as a preventative measure for problems such as horses being held, and because it would help in people's perception of possible problems. It was noted that the cost would be prohibitive and State Security is at the gate for almost every race to watch for problems. Mr. Laedeke suggested that a record should be kept of occurrences during the races and that the stewards should fill out a form and sign it for each inquiry. It was noted records are kept of each race and each inquiry or objection is noted. The final point was that he thought a list should be kept of the jockeys available for the meet and how to get in touch with them. It was noted each race office does have a list of jockeys posted who has declared themselves as available to ride.

Horseman Amber Flom wanted to know why purses weren't higher in Billings this year since Missoula didn't run. It was noted the simulcast money has declined dramatically this year, so any additional funds have already been added to available purse in Billings to keep the same purse structure. She also wanted to know how they are supposed to get a horse off the vet's list if the state vet isn't available before race day. It was noted a vet other than a trainer's usual vet can check the horse and allow them to enter but the state vet may still scratch them.

Burton Farley and Amber Flom wondered if there was a limit to how many veterinarians could be working at a track because one of the available vets was apparently telling others that they could not work at the track. It was noted there is no limit to how many practicing vet licenses may be sold.

## **JOCKEY WEIGHT DISCUSSION:**

Member Carruthers had spoken to the AQHA representative John Ward, and he indicated several jurisdictions are allowing jockeys to be heavier than the weight required if the trainer signs something indicating willingness to do so and it is announced to the public. Considering the problems Great Falls had with jockey availability, Member Carruthers would like our rules to allow the jockey to be 135 pounds with the trainer's agreement and an announcement to the public. Executive Secretary Murfitt thought that raising the room weight would not merely cause the jockeys to not try to keep their weight down and soon they would be again having trouble making weight.

A question was posed from the public as to the possibility of making jockeys ride if they are available and there is a horse with no rider. There is no way to do that at this time. Current practice dictates that if a rider takes off one race for an injury, they have to sit out a certain number but then can ride again, also that if taking off for sickness; they are taken off the rest of the day. The Executive Secretary suggested this issue could be further reviewed in the future.

**Motion by Member Carruthers, seconded by Member Austin to raise the jockey weight to 135 pounds with the trainer's approval at entry time and announcement to the public.**

The Board discussed the current wording of Mont. Admin. R. § 32.28.705 (34) which states "Any overweight exceeding seven pounds may be approved by the stewards." This seven pound maximum then brings the weights up to 131 pounds usually. The number "131 pounds" is not actually mentioned in the rules. Discussion involved changing the weight allowance for the horses so the situation of 11 pounds or more overweight does not continue to

occur. Discussion also involved not wanting to remove the stewards from the approval of overweights process.

**Vote on the motion to increase the jockey weight was three for (Members Carruthers, Austin and Tatsey) and three against (Members Ogdahl, Tooke and Ostlund). Chairman Brastrup voted against and the motion failed.**

**The Board chose to retain this topic as a future agenda item.**

## **OTHER BUSINESS:**

### **1. Mont. Admin. R. § 32.28.709, Pony Persons**

Executive Secretary Murfitt suggested the current rule Mont. Admin. R. §32.28.709 (2) requiring a pony person to wear a safety vest should be repealed since the original basis for the requirement was a workers' compensation insurance issue. Concerns have been raised with heat stroke/exhaustion this year for the pony persons while wearing the vests in extremely hot weather.

**Member Carruthers made a motion that the portion of the rule requiring safety vests to be worn by the pony persons be repealed. The motion was seconded by Member Tatsey and the motion passed.**

### **2. Definition of Montana-bred**

The Board reviewed an e-mail from Richard Clay from Helena addressing his concerns over the possibility of changing the definition of a Montana Bred to include a foal of a stallion standing in Montana. Mr. Clay was against the idea of a definition change. No action was taken on this information item.

During Miles City and Great Falls this year, the Board has paid out a total of \$4,427 in Montana Bred Bonuses.

### **3. Board member orientation**

Legal Counsel Grell Morris briefly discussed statutes and rules pertaining to Board member roles for the new members. No Board member is allowed to bet at any race meeting in Montana which includes simulcast. This would include the appearance of betting by having a spouse place the wager. All meetings, including committee meetings, must follow open meeting procedures by notifying the public, allowing public attendance and keeping minutes. Any Board member who has a conflict of interest, generally being the conflict positions, would need to recuse themselves from certain Board discussions or decisions.

### **4. Governor's office meetings**

Member Tooke informed the Board Patti Keebler and Evan Barrett from the Governor's Office have been holding meetings regarding horse racing. They have also been advising people on horse racing issues, giving information out and addressing complaints regarding horse racing. This has been done with no notice or interaction with the Board or its staff.

### **5. Track purchase**

Member Carruthers stated he has spoken with Mr. Specter associated with Trident who is interested in purchasing a fairgrounds/track in Montana.

### **6. Yellowstone Downs update**

Ben Carlson of Yellowstone Downs told the Board the track would have more tellers this week since there wasn't enough before. He asked the Board again to discuss the issue of clarifying what constitutes the live handle figure used in figuring what percentage of non-site money the tracks get. He felt that it should include any simulcast amount wagering on track during the meet. **The Board briefly discussed the issue and decided to place it on the next board meeting agenda.**

**The next meeting of the Board will be the first week of November.**

**ADJOURNMENT:**

The meeting adjourned at 4:51 p.m.

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Signature

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Date